

CIVIL PARTNERSHIP ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Civil Partnership: England and Wales

Introduction

18. This Part of the Act, except section 35, extends to England and Wales only.

Chapter 1 – Registration

Section 2: Formation of civil partnership by registration

19. *Subsection (1)* describes the point at which a civil partnership is formed and sets out who is to be present at the registration. Two people are to be regarded as having registered as civil partners of each other once each of them has signed the civil partnership document. “The civil partnership document” is defined in section 7. *Subsection (2)* makes it clear that a civil partnership is formed even if the formalities set out at *subsections (3) and (4)* are not complied with. *Subsection (3)* specifies who else must sign the civil partnership document. *Subsection (4)* sets out what is to be recorded in the register once a civil partnership document has been signed and the administrative procedure to be completed following the civil partnership registration.
20. *Subsection (5)* provides that no religious service is to be used while a civil partnership registrar is officiating at the signing of a civil partnership document.

Section 3: Eligibility

21. *Subsection (1)* provides that two people are not eligible to register as civil partners of each other if -
- (a) they are not of the same sex,
 - (b) either of them is already a civil partner or lawfully married,
 - (c) either of them is under 16, or
 - ((d) they are within prohibited degrees of relationship (set out in Part 1 of Schedule 1).

Section 4: Parental etc. consent where proposed civil partner under 18

22. This section sets out the provisions requiring consent where a person wishing to form a civil partnership is under 18 years of age. Part 1 of Schedule 2 identifies the appropriate person or persons who may give consent. *Subsection (3)* provides an exception to the requirement of consent where a civil partner has been bereaved and wishes to form a subsequent civil partnership before he or she is 18. For the purposes of Part 2 of the Act, *subsection (5)* defines “child” as a person who is under 18 (except where the term is used to express a relationship).

Section 5: Types of pre-registration procedure

23. *Subsection (1)* sets out the various procedures, available in England and Wales, under which two people may register as civil partners of each other. *Subsection (2)* sets out the relevant modifications of those procedures which apply where one of the proposed civil partners lives in Scotland, Northern Ireland or is a member of the armed forces serving abroad, and the other has a usual residence in England and Wales, or where the proposed civil partners are former spouses, one of whom has changed sex. *Subsection (3)* provides for all the procedures to be subject to Schedules 1 and 2 (provisions applicable in connection with prohibited degrees of relationship and where a proposed civil partner is under 18). *Subsection (4)* provides that section 5 is also subject to section 249 and Schedule 23 (provisions relating to the formation of civil partnerships by persons subject to immigration control).

Section 6: Place of registration

24. This section states that the place where the proposed civil partnership is to be registered must be in England and Wales, must not be in religious premises and must be specified in the notice or notices of proposed civil partnership. "Religious premises" is defined in *subsection (2)*. *Subsections (3) and (4)* make it clear that in the case of registration under the standard procedure, the place of registration must be one that is open to anyone wishing to attend and that it must be agreed with the registration authority where the registration is to take place before it is specified in a notice. If the place specified in a notice is not agreed then the notice is void.

Section 7: The civil partnership document

25. This section defines the term "civil partnership document" as a Registrar General's licence in relation to the special procedure and a civil partnership schedule for all other procedures. *Subsection (2)* provides that before a civil partnership registration can take place, the civil partnership document must be delivered to the civil partnership registrar who may then ask the proposed civil partners for any information required to be recorded in the register.
26. **Sections 8 to 17** set out the standard procedure by which two people may register as civil partners of each other in England and Wales.

Section 8: Notice of proposed civil partnership and declaration

27. *Subsection (1)* states that for two people to register as civil partners of each other they must each give a notice of proposed civil partnership and have resided in England or Wales for at least 7 days immediately before giving the notice. The information contained in the notice may be prescribed by regulations. *Subsections (3) and (4)* state that a notice must include a solemn declaration in writing to be made by the person giving notice. By this declaration the proposed civil partner must confirm that he or she knows of no legal impediments to the formation of the civil partnership and confirm that each proposed civil partner has had a residence in England and Wales for at least 7 days before the notice was given. The declaration must be signed by the person giving the notice and attested by the "authorised person" (as defined by *subsection (6)*). *Subsection (5)* requires the registration authority to record in the register the fact that the notice has been given and the information in it, and that the authorised person attested the declaration.

Section 9: Power to require evidence of name etc.

28. This section enables a registration authority to request specified evidence to verify certain information contained in a notice of proposed civil partnership. Requests for evidence may only be made before the civil partnership schedule has been issued in accordance with section 14.

Section 10: Proposed civil partnerships to be publicised

29. This section sets out which registration authority (or authorities), as well as the Registrar General, must publicise “relevant information” during the “waiting period” after a notice has been given. *Subsection (2)* defines “relevant information” as the names of the proposed civil partners and such other information as may be prescribed by regulations.

Section 11: Meaning of the “waiting period”

30. This section defines the term “waiting period” for the purposes of Chapter 1.

Section 12: Power to shorten the waiting period

31. This section enables the Registrar General, on an application being made to him, to reduce the waiting period if satisfied there are compelling reasons to do so, because of exceptional circumstances. *Subsections (2)* and *(3)* give the Registrar General the power to make procedural regulations in relation to such applications and to make regulations delegating the power to shorten the waiting period to a registration authority in prescribed cases and making provision for appeals (to the Registrar General) against any decision taken by a registration authority where this power has been delegated.

Section 13: Objection to proposed civil partnership

32. This section sets out the procedure for any person to make an objection to the issue of a civil partnership schedule. The registration authority which receives an objection must record the fact that the objection has been made and the information it contains in the register as soon as possible.

Section 14: Issue of civil partnership schedule

33. This section provides for the issue of a civil partnership schedule at the end of the waiting period. *Subsection (2)* confers a power to make provision as to the contents of the civil partnership schedule. The schedule may be issued on the request of one or both of the proposed civil partners, provided the relevant registration authority is satisfied that there is no lawful impediment to the couple forming a civil partnership and that any objections to the proposed civil partnership have been satisfactorily investigated by the relevant registration authority or have been withdrawn. “The relevant registration authority” means the authority which first records that a notice of proposed civil partnership has been given.

Section 15: Appeal against refusal to issue civil partnership schedule

34. This section provides for an appeal to the Registrar General against the refusal of a registration authority to issue the civil partnership schedule. The Registrar General must either confirm the refusal or direct that a civil partnership schedule be issued.

Section 16: Frivolous objections and representations: liability for costs etc.

35. This section provides for the Registrar General to deal with frivolous objections made against the issue of the civil partnership schedule. *Subsection (3)* imposes liability on a person who makes a frivolous objection or representation for costs of the proceedings before the Registrar General and for damages payable to the proposed civil partner to whom the objection or representation relates.

Section 17: Period during which registration may take place

36. This section provides that the proposed civil partners may not form a civil partnership until the waiting period in relation to each notice of proposed civil partnership has expired. It also specifies the period of validity of a civil partnership schedule issued under the standard procedure as being 12 months, running from when notice of proposed

civil partnership is recorded, and when notices are not recorded on the same day, from the earlier of the two days. After this period the civil partnership schedule becomes void and cannot be used. Fresh notices of proposed civil partnership would need to be given if the parties still intended to form a civil partnership.

Section 18: House-bound persons

37. This section caters for people who wish to register as civil partners of each other at the place where one of them is house-bound. A person will be accepted as being house-bound if, in relation to that person, a statement is made by a registered medical practitioner that, in his opinion, because of illness or disability, that person ought not to move from the place where he or she is at the time when the statement is made and that this is likely to be the case for at least the following 3 months. The statement must be made not more than 14 days before the day on which each notice of proposed civil partnership is recorded.
38. *Subsection (3)* sets out the procedure for a housebound person to register as a civil partner. This is the same as the standard procedure –(see sections 8 – 17) but with the additional requirements that a medical statement must accompany each notice; receipt of the medical statement is recorded in the register; and the applicable period (during which the civil partnership schedule may be signed) is shortened to 3 months.
39. For the purposes of forming a civil partnership, *subsection (6)* treats a person in relation to whom a medical statement is made as being resident and usually resident at the place where he or she is for the time being, even if this would not otherwise be the case.

Section 19: Detained persons

40. This section enables two people to register as civil partners of each other at the place where one of them is detained.
41. *Subsection (2)* defines “detained” as meaning detained as a patient in a hospital (other than as a short-term detainee under the [Mental Health Act 1983 \(c20\)](#)) or in a prison or other place to which the [Prison Act 1952 \(c. 52\)](#) applies.
42. *Subsection (3)* sets out the procedure for registration in such a case. This is the same as the standard procedure (see sections 8 – 17) with the additional requirements that a supporting statement must accompany each notice; receipt of the supporting statement must be recorded in the register and the applicable period (during which the civil partnership schedule must be signed) is shortened to 3 months.
43. *Subsection (4)* sets out that a supporting statement is one made by the responsible authority (as defined by *subsection (6)*) identifying the establishment where the person is detained and confirming that the responsible authority has no objection to that place being specified in a notice of proposed civil partnership as the place at which the detained person is to register as a civil partner.
44. For the purposes of forming a civil partnership, *subsection (8)* treats a detained person as being resident and usually resident at the place where he or she is for the time being, even if this would not otherwise be the case.

Section 20: Modified procedures for certain non-residents

45. [Section 20](#) modifies the standard procedure and the procedures for house-bound persons and for detained persons where two people wish to register as civil partners of each other in England and Wales and one of them is resident in England and Wales but the other resides in Scotland or in Northern Ireland or is a member of Her Majesty’s forces serving overseas.
46. The modifications are set out in *subsection (5)*. The person resident in England and Wales is required to give a notice of proposed civil partnership but the other person is

not required to do so. A registration authority must not issue a civil partnership schedule unless one of the proposed civil partners produces a certificate of no impediment issued under section 97, 150 or 239. In the case of the standard procedure, where one of the proposed civil partners resides in Scotland or Northern Ireland, the applicable period (during which the civil partnership schedule must be signed) is shortened to 3 months.

Section 21: Notice of proposed civil partnership

47. Sections 21 to 27 deal with "the special procedure". This enables a civil partnership registration to take place very quickly, under a Registrar General's licence, where one of the proposed civil partners is seriously ill and not expected to recover. The licence is the equivalent of a civil partnership schedule but can be issued by a registration authority only on the authority of the Registrar General. It is the document that is signed by the couple to form the civil partnership.
48. Section 21 relaxes the normal requirement that both proposed civil partners must give notice and allows one of the proposed civil partners to give a notice of proposed civil partnership under the special procedure, as long as that person complies with any requirement made under section 22. Subsection (3) applies most of the requirements of subsections (3) to (6) of section 8 relating to the declaration to be made when giving notice. The requirement as to residence (in section 8(4)(b)) is not applied.

Section 22: Evidence to be produced

49. This section sets out the evidence that the Registrar General may require the person giving the notice to produce to the registration authority in order to satisfy the Registrar General that the special procedure should be used.
50. Subsection (3) makes it clear that a certificate from a registered medical practitioner is sufficient evidence of the seriousness of a proposed civil partner's medical condition and of that person's ability to understand the nature and purport of signing a Registrar General's licence.

Section 23: Application to be reported to the Registrar General

51. This section requires a registration authority to inform the Registrar General if it receives any notice of proposed civil partnership under the special procedure. The authority must also inform the Registrar General about supporting evidence and comply with any directions that he may give for verifying the evidence.

Section 24: Objection to issue of Registrar General's licence

52. This section sets out the procedure for any person to make an objection to the Registrar General giving authority for the issue of his licence by giving a notice of objection to the Registrar General or any registration authority. A registration authority that receives notice of objection must record the fact that it has been given and the information it contains in the register as soon as possible.

Section 25: Issue of Registrar General's licence

53. This section applies where a notice of proposed civil partnership has been given to a registration authority under the special procedure. The registration authority may issue a Registrar General's licence only if given authority to do so by the Registrar General. The Registrar General may not give his authority unless he is satisfied that one of the proposed civil partners is seriously ill and not expected to recover. If he is so satisfied, he must give his authority unless he is also satisfied that there is a lawful impediment to the issue of the licence. If an objection has been made to the Registrar General giving his authority, he must not give his authority until he has investigated the objection and has decided whether it ought to obstruct the issue of the licence or the objection has been withdrawn.

Section 26: Frivolous objections: liability for costs

54. This section means that a person who makes a frivolous objection will be liable to costs and damages.

Section 27: Period during which registration may take place

55. This section establishes the period of validity of Registrar General's licences issued under the special procedure as 1 month from the day on which notice is given. After this period the notice of proposed civil partnership and the licence are void.

Section 28: Registration authorities

56. This section defines "registration authority" in relation to England and Wales.

Section 29: Civil partnership registrars

57. This section defines a civil partnership registrar as an individual who is designated by a registration authority as a civil partnership registrar for its area (*subsection (1)*). A registration authority is under a duty to ensure that there are enough registrars for its area (*subsection (2)*). The Registrar General is required to make a list of civil partnership registrars available to the public (see *subsection (4)*).

Section 30: The Registrar General and the register

58. This section defines "the Registrar General" and places certain responsibilities on him in connection with the maintenance of records that relate to civil partnerships.

Section 31: Offences relating to civil partnership schedule

59. This section creates offences in relation to the civil partnership schedule.
60. *Subsection (3)* sets out the maximum penalty that may be imposed for these offences. *Subsection (4)* specifies the time limit within which a prosecution may be brought.

Section 32: Offences relating to Registrar General's licence

61. This section creates offences in relation to the special procedure.
62. *Subsection (3)* sets out the maximum penalty that may be imposed for these offences. *Subsection (4)* specifies the time limit within which a prosecution may be brought.

Section 33: Offences relating to the recording of civil partnerships

63. This section creates offences in relation to the requirements for recording civil partnerships in the register, and specifies the maximum penalty for each offence. *Subsection (9)* specifies the time limit of 3 years within which a prosecution may be brought for the offences set out in *subsections (5)* and *(7)*.

Section 34: Fees

64. This section enables the Chancellor of the Exchequer to make an order providing for fees to be payable in relation to elements of the different civil partnership registration procedures and other services provided in connection with civil partnership. The section also makes provision, in cases of hardship, for the Registrar General to remit the fee for the issue of his licence under the special procedure.

Section 35: Power to assimilate provisions relating to civil registration

65. *Subsection (1)* gives the Chancellor of the Exchequer the power to make an order to assimilate, if appropriate, the provisions of the Act connected with the formation or recording of a civil partnership to any provision made in relation to civil marriage in

England and Wales. Such order may also make appropriate consequential amendments of other legislation.

Section 36: Regulations and orders

66. This section provides that regulations may make provision supplementing the provisions on registration. The section also provides that references to regulations in this Chapter are to regulations made by the Registrar General, with the approval of the Chancellor of the Exchequer. *Subsections (4) to (6)* make provision about the procedure for orders and regulations.

Chapter 2 – Dissolution, Nullity and Other Proceedings

Section 37: Powers to make orders and effect of orders

67. This section sets out the orders that the court can make to bring a civil partnership to an end or to provide for the separation of the parties. These are as follows:
- (a) A dissolution order, which when made final will bring a civil partnership to an end.
 - (b) A nullity order, which when made final will annul a civil partnership which is either void or voidable.
 - (c) A presumption of death order, which when made final will dissolve the civil partnership on the ground that one of the civil partners is presumed to be dead.
 - (d) A separation order, which provides for the separation of the civil partners, but will not allow either civil partner to marry or to form another civil partnership.
68. *Subsection (2)* provides that an order for dissolution, nullity or presumption of death will initially be a conditional order and that it may not be made final until the end of the prescribed period defined in section 38.
69. *Subsection (3)* provides that a nullity order made in respect of a civil partnership which is voidable annuls the civil partnership only as respects any time after the order is made final. The civil partnership is to be treated as if it had existed up to that time.
70. The courts which can make these orders are defined in *subsection (4)* as the High Court or a county court with jurisdiction to hear civil partnership proceedings. *Subsection (5)* makes it clear that the powers of the court under this section are subject to the court having jurisdiction under sections 219 to 224 of the Act.

Section 38: The period before conditional orders may be made final

71. This section sets the period which must elapse before a dissolution, nullity or presumption of death order may be made final. By *subsection (1)*, the period is 6 weeks from the making of the conditional order (subject to a slight modification if this period ends on a day when the court office or registry is closed). *Subsection (2)* gives the Lord Chancellor power to make an order substituting a different period not exceeding 6 months. *Subsection (4)* provides that in particular cases the court may reduce the period (this might be relevant, for example, in the case of a deathbed dissolution and formation of a new civil partnership).

Section 39: Intervention of the Queen's Proctor

72. This section provides for the intervention of the Queen's Proctor in proceedings where an application has been made for a dissolution, nullity or presumption of death order. The court may involve the Queen's Proctor where it considers it necessary or expedient to have any question in relation to the case fully argued by counsel appointed by the Queen's Proctor, under the directions of the Attorney General. The Queen's Proctor may also intervene on the basis of information received from any person.

Section 40: Proceedings before order has been made final

73. This section provides for the court to consider the position once a conditional order has been made but before it has been made final. By *subsection (1)*, the section applies where the Queen's Proctor, or anyone who has not been a party to the proceedings, shows that there is cause (good reason) why the conditional order should not be made final on the ground that material facts were not put before the court. By *subsection (2)*, the court may also consider a case under this section where the civil partner who applied for the conditional order has not taken steps to have this made final within 3 months from the earliest date when such an application could have been made, and the other civil partner applies to the court under this section.
74. Where this section applies, the court may make the order final, rescind the order, direct that further enquiries are to be made, or deal with the case in such other manner as it thinks fit. By *subsection (4)*, the court's power to make the order final applies even if the prescribed period under section 38 has not yet expired, but is subject to the restrictions imposed in section 48(4) (relating to financial provision in separation cases) and section 63 (restrictions on the court's powers to make orders affecting children).

Section 41: Time bar on applications for dissolution orders

75. This section states that an application for dissolution of a civil partnership may not be made until at least 1 year after the date of formation of the civil partnership. However, matters which occurred within this 1 year period may be used in support of the application.

Section 42: Attempts at reconciliation of civil partners

76. This section allows the court to adjourn an application for a dissolution or separation order if it appears that the civil partners have a reasonable possibility of achieving a reconciliation. *Subsection (2)* provides that rules of court must make provision requiring the applicant's solicitors to certify whether they have discussed with their client the possibility of reconciliation and to certify whether they have given the applicant details of persons qualified to help with reconciliation.

Section 43: Consideration by the court of certain agreements or arrangements

77. This section provides that rules of court may make provision for civil partners to refer to the court an agreement or arrangement between them in connection with the dissolution of the civil partnership or with their separation. The rules may allow the court to express an opinion about whether the agreement or arrangement is reasonable, or to give directions.

Section 44: Dissolution of civil partnership which has broken down irretrievably

78. *Subsection (1)* sets out the sole ground on which an application for dissolution may be made, namely that the civil partnership has broken down irretrievably.
79. In order to demonstrate the irretrievable breakdown of the civil partnership the applicant must satisfy the court of one or more of the following facts set out in *subsection (5)*:
- a) That his or her civil partner (called the respondent for the purposes of the proceedings) has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent;
 - b) That the applicant and the respondent have lived apart for a continuous period of at least 2 years immediately preceding the application (this is referred to in the Act as "2 years' separation") and that the respondent consents to a dissolution order being made;

- c) That the applicant and the respondent have lived apart for a continuous period of at least 5 years immediately preceding the application (this is referred to as “5 years’ separation”);
 - d) That the respondent has deserted the applicant for a continuous period of at least 2 years immediately preceding the making of the application.
80. *Subsection (2)* provides that the court must inquire as far as possible into the facts alleged by the applicant and any facts put forward by the respondent. The court may not hold that the civil partnership has broken down irretrievably unless the applicant satisfies the court of one or more of the facts set out in *subsection (5)*. But if the court is satisfied of any of those facts it must make a dissolution order unless it is satisfied on all the evidence that the civil partnership has not broken down irretrievably.

Section 45: Supplemental provisions as to facts raising presumption of breakdown

81. *Subsections (1) and (2)* provide that where an applicant alleges that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, but following the final incident relied upon in support of this allegation, the civil partners have continued to cohabit for a period or periods of time not exceeding 6 months in total, the court must disregard this time spent living together when determining whether the applicant cannot reasonably be expected to live with their civil partner.
82. *Subsections (3) and (4)* provide that, where a civil partner allegedly consents to the making of a dissolution order under the “2 years’ separation” head, rules of court must make provision to ensure that he or she is given information which will enable him to understand the consequences of consenting to the order and the steps which must be taken to indicate consent.
83. *Subsection (5)* allows the court to consider a period of desertion as continuing even when the civil partner concerned was incapable of continuing the necessary intention, provided the court would on the evidence have inferred that the period of desertion would have continued if the civil partner had been able to continue the intention. This would cover a situation where one civil partner deserts his or her civil partner for 2 years but is involved in an accident at some time over the 2 years which leads to a temporary loss of consciousness. This break in the “intention to desert” would not stop the 2 years from accruing.
84. *Subsection (6)* provides that when considering whether a period of living apart or desertion is continuous, no account is to be taken of a period or periods of time not exceeding 6 months in total in which the civil partners resumed living together. However (as a separate issue from whether the period of living apart or desertion could be regarded as “continuous”) under *subsection (7)* no period during which the civil partners lived together can count as part of the period of living apart or desertion. So for example, desertion or separation for 2 years can be proved, even if the civil partners lived together for, say, 2 months during the relevant period, so long as the total period of desertion or separation adds up to 2 years (excluding those 2 months).
85. *Subsection (8)* provides that civil partners are to be treated as living apart unless they are living with each other in the same household.

Section 46: Dissolution order not precluded by previous separation order etc.

86. This section provides that where a separation order, an order for financial relief in the magistrates’ court or an order under sections 33 or 37 of the [Family Law Act 1996 \(c. 27\)](#) has been made, this does not prevent either civil partner from applying to the court for a dissolution order on the basis of the same facts that were relied upon when granting the previous order. Under *subsection (3)* the court may treat the previous order

as sufficient proof of the facts by reference to which it was made, but must not make that the dissolution order without receiving evidence from the applicant.

87. *Subsection (4)* applies where an application for a dissolution order is made following a separation order or any order requiring the civil partners to live apart. If there was a period of desertion immediately preceding the application for a separation order, the parties have not resumed living together, and the separation order has been continuously in force since it was made, the period of desertion is to be treated as if it had taken place immediately prior to the application for the dissolution order. This will mean that the period of desertion can be used to support the application for a dissolution order.
88. Under *subsection (5)* the court may also treat as a period of desertion to support an application for a dissolution order a period during which the respondent was subject to an injunction excluding him or her from the civil partnership home or when an order under sections 33 or 37 of the [Family Law Act 1996 \(c. 27\)](#) was in force prohibiting the civil partner from occupying a dwelling-house used (then or previously) as the civil partnership home.

Section 47: Refusal of dissolution in 5 year separation cases on ground of grave hardship

89. *Subsection (1)* provides that the respondent to an application for a dissolution order in which the applicant alleges 5 years' separation may oppose the making of a dissolution order on the ground that the dissolution of the civil partnership would result in grave financial or other hardship to him or her and that in all the circumstances it would be wrong to make the order. By *subsection (3)* the court must consider all the circumstances, including the conduct of the civil partners and the interests of the civil partners and any children or other persons concerned, and if the court is satisfied that there would be grave hardship it must dismiss the application for the dissolution order. *Subsection (4)* provides that "hardship" includes the loss of the chance of acquiring any benefit which the respondent might acquire if the civil partnership were not dissolved.

Section 48: Proceedings before order made final: protection for respondent in separation cases

90. *Subsection (1)* provides that the court can rescind a dissolution order which has not been made final, where the application was on the basis of 2 years' separation coupled with the other civil partner's consent, if the applicant misled the respondent over any matter which was taken into account when giving that consent.
91. *Subsections (2) to (5)* allow the respondent to an application for a dissolution order alleging either 2 years' or 5 years' separation to apply to the court to consider his or her financial position after dissolution of the civil partnership. The court must consider all the relevant circumstances including the age, health, conduct, earning capacity, financial resources and obligations of each civil partner and the position of the respondent on the death of the applicant, assuming the applicant died first. Under *subsection (4)* the court must not make the dissolution order final unless it is satisfied either that the applicant should not be required to make financial provision for the respondent or that the provision made for the respondent is reasonable and fair, or is the best that can be made in the circumstances. Under *subsection (5)* the court may make the dissolution order final if the circumstances make it desirable to do so without delay, provided it has obtained an undertaking from the applicant to make such financial provision for the respondent as the court may approve.

Section 49: Grounds on which civil partnership is void

92. This section sets out the grounds on which a civil partnership will be void (in other words invalid) under the law of England and Wales, where the parties registered as civil partners of each other in England and Wales. (The grounds on which the law of

England and Wales will hold civil partnerships formed outside England and Wales to be void are set out in section 54.) A civil partnership that is void may be annulled by an order of the court under section 37.

93. *Paragraph (a)* provides that the civil partnership will be void if, at the time when the two people registered as civil partners in England and Wales, they were not eligible to register as civil partners of each other under the requirements set out in section 3.
94. *Paragraph (b)* lists the breaches of formal requirements which will render the civil partnership void, if both civil partners were aware of the breach at the time of the registration. These are failure to give the required notice of proposed civil partnership, the civil partnership document not being duly issued or having expired, the place of registration not being the place specified in the notice(s) of proposed civil partnership and the civil partnership document, or a civil partnership registrar not being present at the registration.
95. *Paragraph (c)* provides that the civil partnership will be void if the civil partnership document is void because one of the intended civil partners is a child (under the age of 18) and the issue of the civil partnership document has been forbidden by a person whose consent is required for the child to form a civil partnership.

Section 50: Grounds on which civil partnership is voidable

96. This section sets out the grounds on which an application can be made in England or Wales for an order annulling a civil partnership on the grounds that it is voidable, where the parties registered as civil partners of each other in England and Wales. (The grounds on which the law of England and Wales will hold other civil partnerships to be voidable are set out in section 54.) The grounds are as follows:
 - a) Either of the civil partners did not validly consent to the formation of the civil partnership, through a mistake, through being put under duress or due to unsoundness of mind or otherwise.
 - b) At the time of the formation of the civil partnership either of the civil partners, although able to consent to the registration, was suffering from a mental disorder which made them unfitted for civil partnership.
 - c) At the time of the formation of the civil partnership one of the civil partners was pregnant (other than by the applicant, although that could only be relevant in a case involving a gender change under the Gender Recognition Act 2004). This is subject to section 51(6) which ensures that the court may not make a nullity order unless it is satisfied that the applicant did not know of the pregnancy at the time of the formation of the civil partnership. An application on this ground is subject to the 6 month time limit in section 51(5) (see below).
 - d) An interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either civil partner after the time of the formation of the civil partnership.
 - e) The respondent is a person whose gender at the time of the formation of the civil partnership had become the acquired gender under the Gender Recognition Act 2004. This is subject to section 51(6) which ensures that the court may not make a nullity order unless it is satisfied that the applicant did not know at the time of the formation of the civil partnership that his or her partner had changed gender.

Section 51: Bars to relief where civil partnership is voidable

97. *Subsection (1)* provides that the court must not make a nullity order on the grounds that a civil partnership is voidable if the respondent satisfies the court that the applicant acted towards the respondent in such a way as to indicate that he or she would not apply for a nullity order, and that it would be unjust to the respondent to make the order now.

98. In most cases an application for a nullity order on the grounds that a civil partnership is voidable must be made within 3 years from the date that the civil partnership was formed (see *subsection (2)*). *Subsections (3) and (4)* permit the court to allow later applications where it is just to do so on the basis that the applicant suffered from mental disorder at some time during the 3-year period.
99. A shorter time limit applies where the application is made on the ground that an interim gender recognition certificate has been issued under the Gender Recognition Act 2004 after the date of formation of the civil partnership. In this case proceedings must be instituted within 6 months from the date of issue of that certificate.
100. *Subsection (6)* provides that, where the application is made on the grounds of pregnancy at the time of formation of the civil partnership, or a change of gender previous to that date, a nullity order must not be made unless the court is satisfied that the applicant did not know of the relevant facts at the time of formation of the civil partnership.

Section 52: Proof of certain matters not necessary to validity of civil partnership

101. This section provides that where two people have registered as civil partners of each other in England and Wales it is not necessary for them to provide evidence that any consent required under section 4 (consent by parents etc. where one of the intended civil partners is under 18) was actually given, or that the person who officiated at the signing of the civil partnership schedule was a designated civil partnership registrar for the area in which registration took place. No evidence may be given in any nullity proceedings to disprove either of these facts.
102. The issue of consent is subject to the provisions of section 49(c) which provides that a civil partnership involving a person under 18 will be void if the issue of the civil partnership document was forbidden by a person whose consent was required.

Section 53: Power to validate civil partnership

103. *Subsection (1)* provides that the Lord Chancellor may by order validate a civil partnership, where two people register as civil partners of each other in England and Wales, if it appears to him that the civil partnership is or may be void under section 49(b). *Subsection (2)* provides that an order under subsection (1) may include provisions for relieving a person from any liability under sections 31(2), 32(2), 33(5) or 33(7) (offences relating to civil partnership schedule, Registrar General's licence and recording of civil partnerships). *Subsection (3)* provides that the draft of an order under subsection (1) must be advertised not less than one month prior to the order being made. *Subsection (4)* provides that the Lord Chancellor must consider all written objections sent to him during that month and, if it appears necessary to him, direct a local inquiry into the validity of any such objections. *Subsection (5)* provides that an order under *subsection (1)* is subject to the special parliamentary procedure. The special parliamentary procedure is laid down in the Statutory Orders (Special Procedure) Act 1945.

Section 54: Validity of civil partnership registered outside England and Wales

104. This section sets out the rules to be applied when determining whether, under the law of England and Wales, a civil partnership is void or voidable where the parties did not register as civil partners in England and Wales. If the civil partnership is void or voidable, a court in England and Wales which has jurisdiction under sections 219 to 221 may make a nullity order in respect of the civil partnership under section 37.
105. *Subsection (1)* ensures that a civil partnership formed in Scotland is void for the purposes of the law of England and Wales only if it would be void under the Scottish provisions in section 123. The civil partnership will also be voidable if an interim gender recognition certificate is subsequently issued to either party under the Gender

Recognition Act 2004. (If the case were being considered in Scotland, this would instead be grounds for dissolution of the civil partnership under section 117(2)(b).)

106. *Subsection (2)* ensures that, where two people registered as civil partners in Northern Ireland, the civil partnership is void for the purposes of the law of England and Wales only if it would be void under the Northern Ireland provisions in section 173. The civil partnership will also be voidable if the circumstances fall within any paragraph of section 50(1) (since these are all circumstances which would equally render the civil partnership voidable in Northern Ireland under section 174).
107. *Subsection (4)* deals with the situation where the parties registered as civil partners outside the United Kingdom under an Order in Council made under section 210 or 211. Orders in Council made under those sections will include provision for determining the relevant part of the United Kingdom for certain purposes. Paragraphs (a)(i) and (b) of subsection (4) ensure that questions of nullity are then dealt with in exactly the same way as would apply under English law if the parties had registered as civil partners in that part of the United Kingdom.
108. In addition the civil partnership will be void if the condition in section 210(2)(a) or 211(2)(a) (whichever is relevant) was not met. Where the parties registered as civil partners of each other at a British consulate etc., the condition is that one party must be a United Kingdom national as defined in section 245. Where the parties registered as civil partners of each other in the armed services, the condition is that one of the proposed civil partners is a member of the armed forces serving in the country or territory where the partnership is registered, or falls within certain other related categories as set out in section 211(2)(a).
109. Finally the civil partnership will also be void if there is a breach of a requirement of the Order in Council which is prescribed for this purpose by the Order itself (this power will be used to define in the Order those requirements which are mandatory in order to ensure the validity of the civil partnership).
110. *Subsection (8)* sets out the rules to be applied in relation to an apparent or alleged overseas relationship. An overseas relationship can be treated as a civil partnership under Chapter 2 of Part 5. But the civil partnership will be void if it transpires that the relationship is in fact not an overseas relationship as defined in sections 212 to 214, or if one of the requirements for the overseas relationship to be treated as a civil partnership under sections 215 to 218 is not met. For example the civil partnership will be void if, under the law of the country where the registration took place, the formalities necessary to enter into the overseas relationship were not fulfilled or there was no capacity to enter into the overseas relationship (see section 215(1)). It will also be voidable if that is the effect of the law of the country where the registration took place (see the definition of “the relevant law” in *subsection (10)*) or on the grounds that an interim gender recognition certificate has been issued under the Gender Recognition Act 2004. But if either party was domiciled in England and Wales then the civil partnership will also be voidable in the other circumstances set out in section 50(1), and the same applies if either party was domiciled in Northern Ireland (since these are all circumstances which would equally render the civil partnership voidable in Northern Ireland under section 174).
111. Where a civil partnership is voidable in accordance with this section the section 51 bars to relief are applied in the usual way. However where the civil partnership is voidable by virtue of the application of foreign law, the bars to relief will only apply in so far as they are applicable in accordance with the foreign law.

Section 55: Presumption of death orders

112. This section gives the court power to make a presumption of death order, on the application of a civil partner, if satisfied that there are reasonable grounds for believing that the other civil partner is dead. The fact that the other civil partner has been absent

from the applicant for a continuous period of 7 years or more and that the applicant has no reason to believe that he or she has been living during that time will be accepted as evidence that the other civil partner is dead until the contrary is proved.

Section 56: Separation orders

113. This section allows an application to be made for a separation order on the basis of the same facts as are required for an order for dissolution of a civil partnership. The court must inquire as far as possible into the facts alleged by the applicant and any facts put forward by his or her civil partner (referred to as the respondent for the purpose of the proceedings). If the court is satisfied of the facts alleged it must make a separation order (subject to the provisions of section 63 relating to children). However it is irrelevant whether the civil partnership has broken down irretrievably.

Section 57: Effect of separation order

114. This section provides that, if a civil partner dies without making a will (intestate) at a time when a separation order is in force and the separation is continuing, the rules in respect of the passing of intestate estates shall be applied as if his or her surviving (but separated) civil partner were also dead.

Section 58: Declarations

115. This section provides for people to apply to the High Court or a county court for declarations regarding the status of a civil partnership. These applications cover its validity, that it was or was not in existence on a certain date, and declarations as to whether a dissolution, annulment or legal separation obtained outside England and Wales is or is not entitled to recognition in England and Wales.
116. Under *subsection (2)* if the applicant is not one of the civil partners the court must refuse to hear the application if it considers that the applicant has insufficient interest in the outcome.

Section 59: General provisions as to making and effect of declarations

117. This section provides that where an application is made under section 58 and the truth of the proposition to be declared is proved to the satisfaction of the court, the court must make the declaration requested unless it would be manifestly contrary to public policy to do so. If the court dismisses the application, it must not make any other declaration which has not been applied for. The court cannot make a declaration that a civil partnership was void at its inception. Nothing in this section will prevent the court from being able to make a nullity order in respect of the civil partnership.

Section 60: The Attorney General and proceedings for declarations

118. This section provides that, in any case where an application is made for a declaration under section 58, the court may direct that the appropriate papers in the matter should be sent to the Attorney General. The Attorney General may in any event intervene in proceedings for a declaration under section 58 as he thinks necessary or expedient, and may argue any question which the court thinks should be fully argued. *Subsection (3)* enables the court to make an order for the parties to the proceedings to pay the costs incurred by the Attorney General if this is justified.

Section 61: Supplementary provisions as to declarations

119. This section provides for rules of court to determine the form of an application under section 58 for a declaration, and of the declaration itself. The rules may provide for the information to be supplied by the applicant and for notice of the application to be served on the Attorney General and on persons who may be affected by the declaration.

120. *Subsection (3)* provides that no proceedings under section 58 will affect any final order or judgment already given. *Subsection (4)* allows the court to hear any application under section 58 (or any part of it) in private (and by *subsection (5)* any application for such a direction must itself be heard in private unless the court directs otherwise).

Section 62: Relief for respondent in dissolution proceedings

121. This section provides that if the respondent in dissolution proceedings alleges and proves any of the facts which the applicant had to satisfy the court of, the court may grant the respondent the relief that would normally be granted to an applicant who had proved such facts, as if it had been the respondent who had made the application.

Section 63: Restrictions on making of orders affecting children

122. This section provides that in any proceedings for a dissolution, nullity or separation order the court must consider whether there are any children for whom the court should exercise its powers under the [Children Act 1989 \(c. 41\)](#) in order to safeguard their welfare and provide for their upbringing. If necessary the court may direct that the dissolution, nullity or separation order is not to be made final until the court has considered whether to exercise those powers. The provisions apply to any child of the family who is under 16 years of age at the date the court considers the position and also to children of the family over 16 if the court directs that they should also be included in its consideration.

Section 64: Parties to proceedings under this chapter

123. This section allows rules of court to be made to allow for parties to be joined to proceedings for dissolution, nullity or separation if they are involved in allegations of improper conduct made in the proceedings. The rules may provide for the court to dismiss from the proceedings any parties whom it has joined. Rules may also make provision as to the persons who are to be parties to an application for a declaration. *Subsection (3)* enables the court to permit a person to intervene if it thinks he or she should be made a party.

Chapter 3 – Property and financial arrangements

Section 65: Contribution by civil partner to property improvement

124. This section provides that where a civil partner has made a substantial contribution in money or money's worth to the improvement of property in which either or both the civil partners have an interest he or she is to be treated as having acquired a share or an enlarged share in that property. The extent of the share will be determined by any agreement made between the parties. Alternatively if there is no agreement, it will be determined by what may seem in all the circumstances just to any court before which the question of the existence or extent of the beneficial interest of either of the civil partners arises. The contributing civil partner will not be treated as acquiring a share or an enlarged share where there is an express or implied agreement between the parties to the contrary.

Section 66: Disputes between civil partners about property

125. This section enables civil partners to refer disputes over property to court. It provides that civil partners may apply to the High Court or to a county court in respect of any question relating to the title to or the possession of property. The court may make such order with respect to the property as it thinks fit, including an order for the sale of the property.

Section 67: Applications under section 66 where property not in possession etc.

126. This section allows one civil partner (A) to make an application under section 66 where the other civil partner (B) no longer has the money or property concerned or A does not know whether B still has the money or property. The power of the court to make orders under section 66 includes the power to order B to pay to A such sum of money as seems appropriate or to make any other order which it could have made under section 64.

Section 68: Applications under section 66 by former civil partners

127. This section allows a former civil partner to make an application to the court under section 66 in respect of a dispute over property despite the fact that the civil partnership has been dissolved or annulled. The application must be made within 3 years of the date of dissolution or annulment of the civil partnership.

Section 69: Actions in tort between civil partners

128. This section enables the court to stay proceedings in tort brought by one civil partner against the other during their civil partnership if it appears that neither party would substantially benefit from continuation of the proceedings, or where the issue could better be resolved by an application under section 66. It also enables the court to exercise any of the powers it could exercise under section 66 or give any directions as it thinks fit for the disposal, under that section, of any question arising in the proceedings.

Section 70: Assurance policy by civil partner for benefit of other civil partner etc.

129. This section extends the application of section 11 of the [Married Women's Property Act 1882 \(c.75\)](#) to civil partners, so that if a civil partner takes out a life insurance policy to provide for his or her civil partner or children the money payable under the policy is not to form part of the estate of the insured.

Section 71: Wills, administration of estates and family provision

130. This section introduces Schedule 4 which amends legislative provisions relating to wills, the administration of estates and family provision so that civil partners will receive the same treatment as married people.

Section 72: Financial relief for civil partners and children of the family

131. *Subsection (1)* introduces Schedule 5, which makes provision for financial relief for civil partners which corresponds to the relief available to married couples in the High Court or a county court under Part 2 of the Matrimonial Causes Act 1973 when they go through divorce, nullity or judicial separation proceedings.
132. *Subsection (2)* provides that if the effect of rules of law is that provisions for financial relief under Part 2 of the Matrimonial Causes Act 1973 are interpreted as being available in the case of the dissolution of a marriage on the ground of presumed death, then those rules of law will also apply to the corresponding financial provisions in Schedule 5 to the Act for civil partners, with any necessary modifications. This is to allow case law to be available to civil partners which allows for financial relief to be available if the person who was presumed dead is subsequently proved to be alive.
133. *Subsection (3)* introduces Schedule 6, which provides civil partners with the right to apply for financial relief in magistrates' courts in a way that corresponds to the rights that exist for married people under the [Domestic Proceedings and Magistrates Courts Act 1978 \(c.22\)](#).
134. *Subsection (4)* introduces Schedule 7, which contains provisions for financial relief in England and Wales after a civil partnership has been dissolved or annulled or the civil partners have been legally separated in a country outside the British Islands. "British

Islands” is defined in the [Interpretation Act 1978 \(c. 30\)](#) as comprising the United Kingdom, the Channel Islands and the Isle of Man.

Chapter 4 – Civil partnership agreements

Section 73: Civil partnership agreements unenforceable

- 135. This section provides that an agreement to form a civil partnership (“a civil partnership agreement”) does not constitute a contract giving rise to legal rights under the law of England and Wales and will not be enforceable.
- 136. *Subsection (2)* provides that no action can be taken over any breach of a civil partnership agreement.
- 137. *Subsection (4)* provides that the section will apply to civil partnership agreements entered into both before and after the section comes into force but it will not affect any legal action which has begun before the section comes into force.

Section 74: Property where civil partnership agreement is terminated

- 138. This section applies when a civil partnership agreement is terminated. It provides that section 65 (contributions to property improvement by a civil partner) and sections 66 and 67 (disputes between civil partners about property and applications where property is not in possession) will apply in relation to property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force.
- 139. An application made using the provisions of sections 66 and 67 must be made within 3 years of the date of termination of the civil partnership agreement.
- 140. *Subsection (5)* provides that a person who makes a gift to the other person on the understanding that it will be returned if the civil partnership agreement is terminated is not prevented from recovering the property merely because he or she terminated the agreement.

Chapter 5 – Children

- 141. This Chapter makes various amendments to the Children Act 1989 and the Adoption and Children Act 2002 to reflect the creation of the new relationship of civil partnership.

Section 75: Parental responsibility, children of the family and relatives

- 142. This section amends various provisions of the Children Act 1989 (“the 1989 Act”) to put civil partners on the same footing as married couples.
- 143. *Subsection (2)* amends section 4A(1) of the 1989 Act to enable a civil partner to acquire parental responsibility of his or her civil partner’s child in the same way as a person who is married to the parent of the child (but is not that child’s parent).
- 144. *Subsection (3)* amends the definition of “child of the family” in section 105(1) of the 1989 Act to include a child of both civil partners and any other child who has been treated as a child of the family by both civil partners, unless the child had been placed with the civil partners by a local authority or a voluntary organisation as foster parents.
- 145. *Subsection (4)* amends the definition of “relative” in section 105 (1) of the 1989 Act to replace “by affinity” with “by marriage or civil partnership”.

Section 76: Guardianship

- 146. This section amends section 6 of the 1989 Act in relation to the revocation and disclaimer of appointments of guardians. Under section 5(3) and (4) of the 1989 Act a parent or guardian may appoint any person to act as the guardian of a child in his or her place. This section inserts a provision into section 6 of the 1989 Act so that where a

person appoints his or her civil partner to be the guardian of a child that appointment is revoked if the civil partnership is dissolved or annulled, unless the appointment itself indicates that a dissolution or annulment of the civil partnership should not affect the appointment.

Section 77: Entitlement to apply for a residence or contact order

147. This section amends section 10(5) of the 1989 Act to add a civil partner in a civil partnership to the class of people who are able to apply for a residence or contact order. The amendment enables civil partners to apply for an order whether or not the civil partnership subsists.

Section 78: Financial provision for children

148. This Section amends Schedule 1 to the 1989 Act by adding to the definition of periodical payment orders in paragraph 2(6) of that Schedule orders under the provisions of Parts 1 and 9 of Schedule 5 and under Schedule 6 to this Act. This will enable courts to make orders for periodical payments to be made from one civil partner to the other or to a child of the family, or to a particular person for the benefit of a child of the family.
149. *Subsection (3)* amends Paragraph 15(2) of Schedule 1 to the 1989 Act so that a local authority will not be able to make a contribution towards the maintenance of a child who is subject to a residence order where the person with whom the child is living is a parent of the child, or the husband or wife or civil partner of a parent of the child.
150. *Subsection (4)* extends the meaning of “parent” in paragraph 16(2) of Schedule 1 to the 1989 Act to include any civil partner in a partnership, whether it is still in existence or whether it has been brought to an end, for whom the child concerned is a child of the family.

Section 79: Adoption

151. This section amends the Adoption and Children Act 2002 (“the 2002 Act”) to ensure that the relationship of civil partnership is recognised for the purposes of adoption.
152. *Subsection (2)* amends section 21(4)(c) of the 2002 Act to allow a placement order to end when a child forms a civil partnership.
153. *Subsection (3)* inserts an additional subsection in section 47 of the 2002 Act so that an adoption order cannot be made in respect of any person who is in a civil partnership or has been in a civil partnership.
154. *Subsection (4)* amends section 51(1) of the 2002 Act to allow for an adoption order to be made on the application of one person where that person is over the age of 21 years and is not married or is not a civil partner.
155. *Subsection (5)* inserts an additional subsection in section 51 of the 2002 Act to set out the circumstances where one member of a civil partnership may apply for an adoption order on their own and not as a couple. The circumstances are that: the person’s civil partner cannot be found; the civil partners have separated and are living apart, and the separation is likely to be permanent; or the person’s civil partner is incapable of making an application for an adoption order because of physical or mental ill-health.
156. *Subsection (6)* amends section 64 of the 2002 Act to include a civil partnership. Section 64(5) enables fees to be prescribed in respect of persons who apply to the adoption agency under sections 60, 61 or 62 for information. The exception is amended to provide that the adopted person cannot be charged in respect of any information disclosed to him about any person who but for his adoption would be related to him by blood, including half-blood, marriage or civil partnership.

157. *Subsection (7)* amends section 74(1) of the 2002 Act to ensure that the status conferred as a consequence of an adoption order does not apply for the purposes of either Schedule 1 to the Civil Partnership Act (prohibited degrees of relationship) or Schedule 1 to the Marriage Act 1949.
158. *Subsection (8)* amends section 79(7) of the 2002 Act to ensure that an adopted person who intends to form a civil partnership can apply to the Registrar General for him to check that the person, with whom the applicant intends to form a civil partnership, does not fall within the prohibited degrees.
159. *Subsection (9)* amends section 81 of the 2002 Act to ensure that the meaning of “relative” for the purposes of an entry in the adoption contact register includes a person related by civil partnership.
160. *Subsection (10)* ensures that the meaning of “relative” in section 98 of the 2002 Act includes a person related by civil partnership. Section 98 of the 2002 Act amplifies the regulation-making power in section 9 to provide that the appropriate Minister may make regulations in connection with adoptions made before the commencement of sections 56 to 65. Section 98(1) of the 2002 Act provides that regulations may make provision for assisting adults adopted before the appointed day to obtain information about their adoption and to facilitate contact between them and their relatives.
161. *Subsection (11)* extends the meaning of “relative” in relation to a child in section 144(1) of the 2002 Act to include people related by civil partnership as well as by marriage. Section 144 of the 2002 Act provides general interpretation.
162. *Subsection (12)* amends the definition (for the purposes of that Act) of “couple” in section 144(4) of the 2002 Act to include two people who are civil partners of each other. With the amendment made by the Civil Partnership Act, a couple means a married couple, two people who are civil partners of each other, or two people, whether of different sexes or of the same sex, living as partners in an enduring family relationship.

Chapter 6 – Miscellaneous

Section 80: False statements etc. with reference to civil partnerships

163. *Subsection (1)* makes it an offence knowingly to make certain false statements or representations. For example, a person who signs a declaration under section 8 that he is free to form a civil partnership, knowing that the declaration is false, commits an offence. A person guilty of an offence under *subsection (1)* is liable on conviction on indictment to imprisonment, for a term not exceeding 7 years, or to a fine (or both) and on summary conviction, to a fine not exceeding the statutory maximum. These provisions are similar to those in section 3(1) of the Perjury Act 1911 under which it is an offence to make false statements or representations with reference to marriage. The effect of *subsection (4)* is that all the other relevant provisions in the Perjury Act 1911 will apply, without having to replicate them in the Civil Partnership Act. So, for example, section 7(1) of the Perjury Act, which applies to people who aid, abet etc offences under that Act, would apply to a person who helps another person to commit an offence under section 80.

Section 81: Housing and tenancies

164. This section introduces Schedule 8, which makes amendments to a range of enactments relating to housing and tenancies.

Section 82: Family homes and domestic violence

165. This section introduces Schedule 9, which amends Part 4 of the Family Law Act 1996 and related enactments so that they apply in relation to civil partnerships as they apply in relation to marriages. The amendments will mean that civil partners have the same rights

to occupy the civil partnership home as married persons have to occupy the matrimonial home. In addition civil partners will be able to apply for non-molestation orders and occupation orders. Occupation orders are orders regulating occupation of the home. An occupation order might, for example, exclude the respondent from the home and vicinity of the home or prohibit, terminate or restrict the exercise of the respondent's occupation rights.

Section 83: Fatal accidents claims

166. This section extends the provisions of the Fatal Accidents Act 1976 to include civil partners, so that where a person's death is caused by the wrongful act, neglect or default of another person, a civil partner of the deceased will be able to claim compensation in the same way as a spouse.
167. *Subsections (2) and (3)* widen the definition of "dependant" for the purposes of a right of action under the 1976 Act to include a civil partner of the deceased, a person living as the civil partner of the deceased and a former civil partner of the deceased. *Subsection (4)* widens the definition of "dependant" to include any person (not being a child of the deceased) who was treated by the deceased as a child of the family, in relation to any civil partnership to which the deceased was at any time a party.
168. *Subsections (5) to (8)* make consequential provision related to these changes.

Section 84: Evidence

169. *Subsection (1)* of this section provides that enactments or rules of law applying to the giving of evidence by a spouse will apply also to the giving of evidence by a civil partner.
170. However, *subsection (2)* sets out that the general provision in *subsection (1)* is subject to any specific amendment made by or under the Act which relates to the giving of evidence by a civil partner. This takes account of the fact that in some instances it is more appropriate to amend specific provisions in other enactments or rules. A number of the amendments made by Schedule 27 relate specifically to the giving of evidence by a civil partner.
171. *Subsection (5)* provides that any rule of law which makes evidence of family tradition admissible to prove or disprove the existence of a marriage is to apply in a similar way in order to prove or disprove the existence of a civil partnership.